

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION
3:05-CR-00046-RJC-DSC

USA)
)
v.) ORDER
)
CURTIS ARNOLD (2))
)
_____)

THIS MATTER is before the Court upon motion of the defendant pro se for a reduction of sentence based on the First Step Act of 2018. (Doc. No. 155).

The defendant pled guilty to conspiring to possess with intent to distribute 5 kilograms or more of cocaine (Count One), admitting that more than 15 kilograms, but less than 50, was reasonably foreseeable to him. (Doc. No. 1: Indictment at 1; Doc. No. 21: Plea Agreement at 2). Combined with his prior drug trafficking conviction, (Doc. No. 18: 21 U.S.C. § 851 Notice), the statutory range of punishment was 20 years to life imprisonment. (Doc. No. 21: Plea Agreement at 1). At the sentencing hearing, the Court found the defendant to be a Career Offender and sentenced him to 262 months, the low-end of the advisory range. (Doc. No. 38: Amended Judgment at 2; Doc. No. 52: Sent. Hr'g Tr. at 29-30).

Under the First Step Act, the Court has discretion to impose a reduced sentence as if the Fair Sentencing Act of 2010 had been in place at the time of the original offense was committed. Pub. L. 115-135, § 404 (2018). The Fair Sentencing Act increased the number of grams of cocaine base needed to trigger mandatory minimum punishments under 21 U.S.C. § 841(b)(1)(A)(iii) and (B)(iii). Pub. Law

111-220, § 2(a) (2010). Here, the defendant's offense involved kilograms cocaine, resulting in no change in statutory punishment. Additionally, the resulting advisory guideline range would remain 262 to 327 months. USSG §4B1.1. Accordingly, the defendant does not qualify for a sentence reduction under the First Step Act.

IT IS, THEREFORE, ORDERED that the defendant's motion, (Doc. No. 155), is **DENIED**.

The Clerk is directed to certify copies of this Order to the defendant, the Federal Defender, the United States Attorney, the United States Marshals Service, and the United States Probation Office.

Signed: November 14, 2019



Robert J. Conrad, Jr.
United States District Judge
